

## REMARKS

Reconsideration of the present application is respectfully requested. In response to the office action dated December 20, 2005, Applicants have amended claims 1, 3, 4, 15, 16, 17, 22, 29, 34, 37 and 40. Therefore, claims 1-12 and 15-43 remain for consideration in this application. Claims 13 and 14 have been cancelled without prejudice or disclaimer.

Applicants wish to thank the Examiner for his courtesies during the recent interview in this application. During the interview claims 1-43 and all cited references were discussed. Applicants proposed amendments to obviate the rejections under 35 U.S.C. 112, second paragraph. Applicants also proposed amending independent claims 1, 4, 34, and 40 to recite the limitation that the plastomer comprises an oxidized polyolefin. The Examiner indicated that this amendment appeared to overcome the cited art. Applicants also stated their intent to argue that the cited references do not read upon independent claims 35, 37, and 41. The Examiner noted that he would accept Applicants' amendments and arguments as overcoming the cited art, however an updated search would be performed prior to allowing the application.

Consistent with the proposals discussed during the interview, Applicants have amended claims 3 and 29 to insert the proper Markush language prior to the recitation of the group members. Claims 13 and 14 have been cancelled thereby rendering the §112, second paragraph, rejection moot. Claims 16 and 17 have been amended to delete the term "about" appearing after the phrase "less than." Claim 22 has been amended to replace the conjunction "and" with "or." The specification on page 11, line 15 has been amended to correct the same typographical error. Applicants submit that all §112, second paragraph, rejections have been overcome.

Turning now to the rejections under 35 U.S.C. 102(b) and 103(a), Applicants have amended independent claims 1, 4, 34, and 40 to include the limitation "wherein said plastomer comprises an oxidized polyolefin." Support for this amendment may be found on page 10, line 18 of the specification. During the interview, the Examiner agreed that none of the cited references disclose a pellet, asphalt composition, process

for producing an asphalt composition, or process for producing a hot mix comprising an oxidized polyolefin plastomer. Therefore, claims 1, 4, 34, 40, and all claims depending therefrom are in condition for allowance.

Claims 35-39 and 41 (of which claims 35, 37, and 41 are independent) remain as originally filed. These claims were rejected as being anticipated by or obvious over Bohm et al., Maillet et al., Planche et al., in view of Liang et al., or Andriolo. Applicants submit that the cited references do not read upon these claims.

Independent claim 35 is directed toward a process for producing a modified asphalt composition comprising (1) contacting at least one plastomer, at least one elastomer, and at least one crosslinking agent to produce a pellet; and (2) adding the pellet to asphalt in a mixing zone to produce the modified asphalt composition. Applicants submit that none of the cited references teaches the step of forming a pellet comprising at least one plastomer, at least one elastomer and at least one crosslinking agent as presently claimed. Neither Planche et al., Maillet et al., nor Bohm et al. teach formation of any kind of pellets. Andriolo teaches only formation of a pelletized vulcanizing agent comprising a sulfur agent and a binder. Liang et al. only generally discusses formation of compounded bitumen pellets and does not specifically teach formation of a pellet comprising elastomer, plastomer, and crosslinking agent. Therefore, none of the cited references anticipate or otherwise render claim 35 obvious.

Independent claim 37 is generally directed toward a process for producing a modified asphalt composition comprising producing plastomer/elastomer and plastomer/crosslinking agent pellets and then adding the pellets to molten asphalt. Please note that claim 37 was amended only to correct a typographical error (the numeral "2" was originally used to denote more than one step). None of the cited references teaches formation of plastomer/elastomer pellets which are then added, along with plastomer/crosslinking agent pellets, to a molten asphalt. Applicants respectfully submit that claim 37 is therefore free of the cited references.

Independent claim 41 is similar in many respects to claim 37, but is directed to a process for producing a hot mix asphalt composition. Again, none of the cited

references teaches formation of plastomer/elastomer pellets which are then added, along with plastomer/crosslinking agent pellets, to a molten asphalt.

Dependent claims 36, 38, and 39 recite additional limitations which are patentable over the references of record.

Applicants respectfully requests that a timely Notice of Allowance be issued in this case.

A 2-month Petition for Extension of Time accompanies this Amendment. Please deduct the \$450.00 fee from Deposit Account No. 19-0522. The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 19-0522.

Respectfully Submitted,

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